

HB 0158 SUMMARY/cover_page

Mr. Chairman and members of the Education Committee

My name is Dewey Duffel.

I live in Thompson Falls and am a retired from the Merchant Marines as a Radio Operator. I manage a website that provides hard to find information on vaccination. (VacLib.org)

I am against HB 158 because:

The bill fails to provide true scientific oversight on vaccine recommendations or mandates.

HB 158 puts what will effectively be law making authority in the hands of unelected officials.

Montana Immunization Law as it currently stands is one of the best in the nation. Yet in contrast, due to DHHS policies, Montana is one of the most restrictive states for exemptions:

Parents are denied a comprehensive religious exemption in the daycare setting due to an administrative ruling.

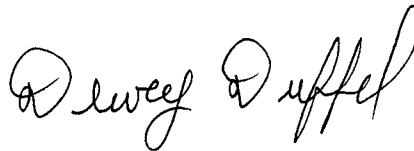
Further DHHS has restricted medical exemptions that affect both daycare and schools. DHHS has posted a narrow list of what they call "true" reasons for medical exemptions and further implemented a review board to pass judgment on the medical exemptions signed by doctors. I don't believe it is legal or appropriate for DHHS to reject exemptions signed by doctors due to the potential knowledge gained by doctors' first hand experiences.

Given the history of DHHS, their power needs to be reduced not increased. HB 158 would increase DHHS' power.

A longer more detailed explanation of these items is attached. Please vote NO on HB 158.

Thank you for listening.

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HB 158 Vote No [Dewey Duffel testimony and supporting documents.]

In the last few years there has been a nationwide coordinated effort to revise state laws to accomplish two goals:

1. Streamline the addition of new vaccines to the already large number of vaccines mandated for school entry.
2. Reduce or eliminate available exemptions to vaccine mandates.

Why streamline vaccine approval and mandates? In 1990, the cost of the three required vaccines for one child was \$70. By 2012 this cost for 13 mandated vaccines rose to \$1712 per child. This price is the CDC's wholesale cost and does not include administration of the vaccine or the cost of treating adverse side effects. (1)

One report "shows that U.S. biopharma companies are currently developing 271 vaccines ..." (2)
There is no scientific evidence more vaccines will improve health.

Exemptions

According to the CDC, in 2013-14, nationwide, "The median total exemption rate was 1.8%. ..." (3)

According to the CDC, in 2005-06, Montana had 99.8 percent of its kindergarten children compliant with the state's "immunization" schedule. (4)

Montana does not need more exemption restrictions. In fact, quite the contrary.

Montana has a moderate "immunization" law that was well written in accord with national standards. The law as it stands can be criticized for one thing only. The law is not sufficiently precise in language to prevent abuse by DHHS. Out of 50 states, Montana is one of two most restrictive states regarding religious exemptions in daycare due to improper implementing of rules by DHHS. DHHS expanded the number of vaccines required for children to attend daycare over the one vaccine required by law. I believe this expansion is allowed, however, Montana law provides for both medical and religious exemptions. (5) When DHHS rules expanded the number of required vaccines in daycare only the medical exemption expanded and DHHS failed to follow Montana law by providing the religious exemption to also expand. (6)

DHHS policy of exemption restriction was stepped up in 2011 to include harassing doctors. First by issuing an medical exemption form (HES101A) with a very narrow list of what DHHS calls "true medical exemptions to vaccinations". (7) Then DHHS visited a large percentage of the state's childcare facilities to "encourage" immunization compliance. Next a Medical Exemption Review Panel was established. In less than a year, the "State Medical Officer received 44 medical exemptions thought to lack sufficient evidence." (8) Where in state law is the DHHS given the power to tell doctors that their judgment regarding the basis for a medical exemption is faulty? And to deny those medical exemptions signed by medical doctors?

Given that DHHS has a long history of overstepping their lawful authority as given in Montana law it follows that giving further Rule Making Authority to DHHS would be a grave blow to the rights of Montana citizens and is contrary to a scientific approach to public health.

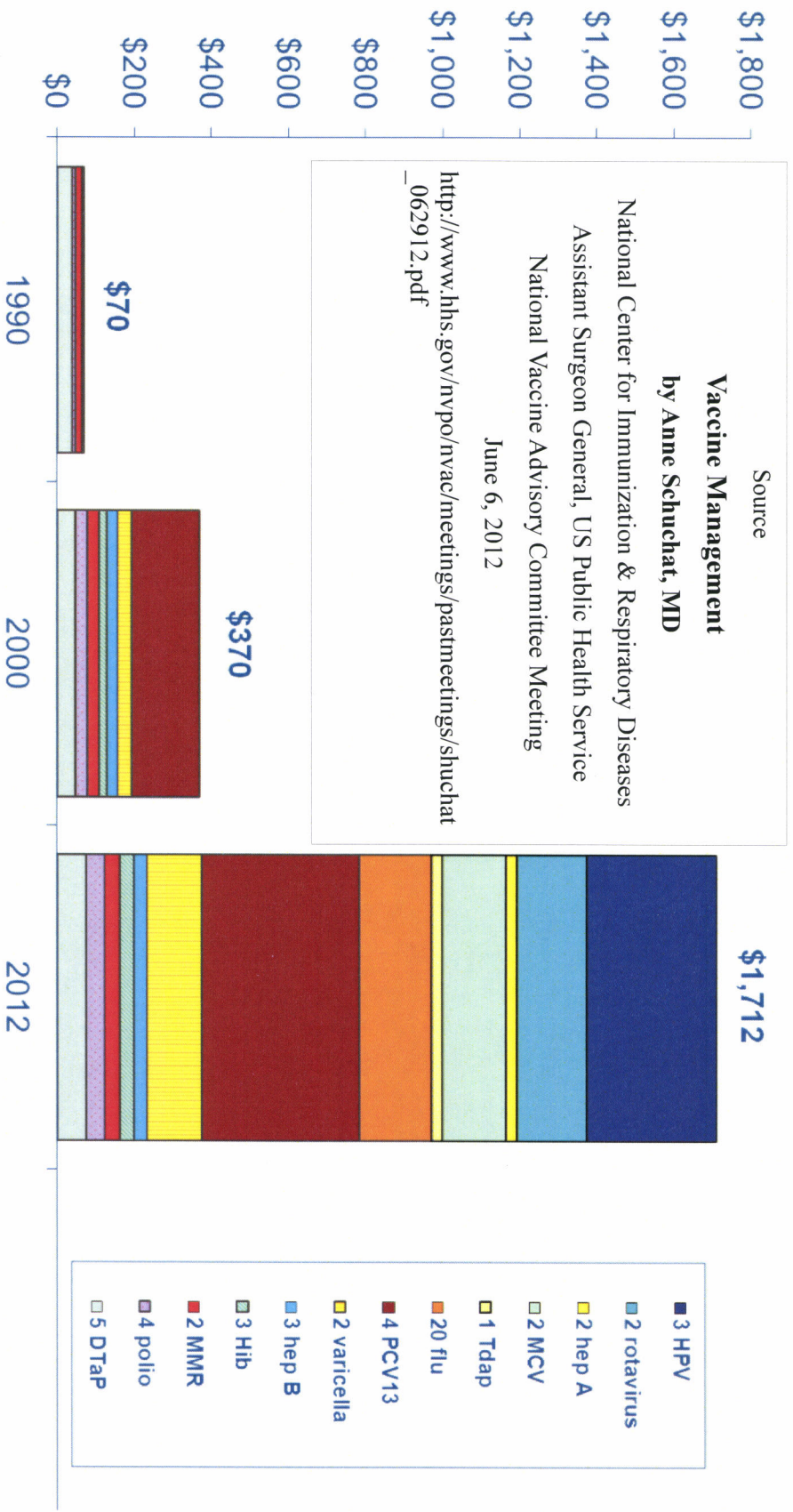
Please vote **NO ON HB 158**. Thank you.

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References:

- (1) (Cost) http://www.hhs.gov/nvpo/nvac/meetings/pastmeetings/shuchat_062912.pdf
See attached page 3 next.
- (2) New PhRMA Report: Nearly 300 Vaccines Currently in Development 09/11/2013
<http://www.biotech-now.org/health/2013/09/new-phrma-report-nearly-300-vaccines-currently-in-development#>
- (3) Vaccination Coverage Among Children in Kindergarten — United States, 2013–14 School Year
<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6341a1.htm>
- (4) Vaccination Coverage Among Children Entering School --- United States, 2005--06 School Year
<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5541a3.htm#tab2>
- (5) **52-2-735. Health protection -- certification required.** (copy in page 4)
<http://leg.mt.gov/bills/mca/52/2/52-2-735.htm>
- (6) HES114 Affidavit of Exemption from Administration of Haemophilus Influenzae Type b (Hib) on Religious Grounds from Montana Daycare Immunization Rules. See page 5, attached.
http://www.dphhs.mt.gov/Portals/85/publichealth/documents/Immunization/Day%20Care/06_HES%20114%20Hib%20religious%20exemp.pdf
- (7) New Medical Exemption Form 08182012. See pages 6 and 7 attached.
<http://www.dphhs.mt.gov/Portals/85/publichealth/documents/Immunization/Day%20Care/NewMedicalExemptionForm08132012.pdf>
- (8) Page one of April, 2012, Vol 7 Issue 4 of Montana Public Health bulletin. Attached on page 8 of this handout.
<http://www.dphhs.mt.gov/Portals/85/publichealth/documents/MPH/MPH%202012/2012-04MPH.pdf>

Cost to Vaccinate One Child with Vaccines Universally Recommended from Birth Through 18 Years of Age: 1990, 2000, and 2012



2012 represents minimum cost to vaccinate a child (birth through 18); exceptions are 1) no preservative influenza vaccine, which is included for children 6-47 months of age, and 2) HPV for males and females.

Federal contract prices as of February 1, 1990, September 27, 2000, and April 24, 2012.

52-2-735. Health protection -- certification required. (1) The department shall adopt rules for the protection of children in day-care centers from the health hazards of inadequate food preparation, poor nutrition, and communicable diseases. Rules adopted by the department must include rules requiring children under 5 years of age to be immunized against Haemophilus influenza type "b" before being admitted for care in the facility unless an exemption has been claimed as provided in 20-5-405.

(2) Local public health authorities shall arrange to provide training to day-care center providers and employees regarding health hazards. Upon successful completion of the training the local public health authorities shall issue certificates to the providers and employees.

(3) In lieu of training, local public health authorities may elect to inspect facilities and issue certificates of approval to child-care center providers.

(4) Each applicant for a license to operate a day-care center shall submit to the department a certificate issued pursuant to subsection (2) or (3) before the department will issue a license.

(5) The local public health authority may charge the applicant a reasonable fee, not to exceed \$25, for any inspection necessary to issue a certificate of approval, or a fee not to exceed the documented cost for training it provides under this section.

History: En. Sec. 5, Ch. 247, L. 1965; amd. Sec. 5, Ch. 121, L. 1974; R.C.M. 1947, 10-805; amd. Sec. 7, Ch. 606, L. 1981; Sec. 53-4-506, MCA 1987; redes. 52-2-735 by Code Commissioner, 1989; amd. Sec. 3, Ch. 165, L. 1991; amd. Sec. 152, Ch. 418, L. 1995; amd. Sec. 352, Ch. 546, L. 1995.

**AFFIDAVIT of EXEMPTION FROM ADMINISTRATION of
HAEMOPHILUS INFLUENZAE TYPE b (Hib) on RELIGIOUS
GROUNDS FROM MONTANA
DAYCARE IMMUNIZATION RULES**

Child's full name _____

Birth Date _____

Age _____

Sex _____

Daycare Facility _____

Name of parent, guardian, or other person responsible for child's care and custody: _____

Street address and city: _____

Telephone: (home) _____ (work) _____

I, the undersigned, swear or affirm that immunization against *Haemophilus influenzae* type b (Hib) is contrary to my religious tenets and practices.

I also understand that:

(1) I am subject to the penalty for false swearing if I falsely claim a religious exemption for the above-named student [i.e. a fine of up to \$500, up to 6 months in jail, or both (Sec. 45-7-202, MCA)];

(2) In the event of an outbreak of the *Haemophilus influenzae* type b (Hib) disease listed above, the above-exempted child may be excluded from the daycare by the local health officer or the Department of Public Health and Human Services until the child is no longer at risk for contracting or transmitting that disease; and

(3) **A new affidavit of exemption for the above child must be signed, sworn to, and notarized yearly and kept together with the State of Montana Certificate of Immunization (HES-101) in the day care's records.**

Signature of parent, guardian, or other person
responsible for the above child's care and
custody

Date

Subscribed and sworn to before me this _____ day of _____, _____.

SEAL

Notary Public for the State of Montana
Residing in _____
My commission expires _____

HES-114 (8/14)

Medical Exemption Statement

Physician: Please mark the contraindications/precautions that apply to this patient, then sign and date the back of the form. The signed Medical Exemption Statement verifying true contraindications/precautions is submitted to and accepted by schools, childcare facilities, and other agencies that require proof of immunization. For medical exemptions for conditions not listed below, please note the vaccine(s) that is contraindicated and a description of the medical condition in the space provided at the end of the form. The State Medical Officer may request to review medical exemptions.

Attach a copy of the most current immunization record

Name of patient _____ DOB _____
Name of parent/guardian _____
Address (patient/parent) _____
School/child care facility _____

For official use only:

☐ Check if reviewed by public health Name/credentials of reviewer: _____ Date of review: _____

Medical contraindications for immunizations are determined by the most recent General Recommendations of the Advisory Committee on Immunization Practices (ACIP), U.S. Department of Health and Human Services, published in the Centers for Disease Control and Prevention's publication, the Morbidity and Mortality Weekly Report.

A **contraindication** is a condition in a recipient that increases the risk for a serious adverse reaction. A vaccine will not be administered when a contraindication exists.

A **precaution** is a condition in a recipient that might increase the risk for a serious adverse reaction or that might compromise the ability of the vaccine to produce immunity. Under normal conditions, vaccinations should be deferred when a precaution is present.

Contraindications and Precautions

Vaccine	X	
Hepatitis B (not currently required by Administrative Rule of Montana [ARM])	<input type="checkbox"/>	Contraindications • Serious allergic reaction (e.g., anaphylaxis) after a previous vaccine dose or vaccine component
	<input type="checkbox"/>	Precautions • Moderate or severe acute illness with or without fever
DTaP	<input type="checkbox"/>	Contraindications • Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component
	<input type="checkbox"/>	• Encephalopathy within 7 days after receiving previous dose of DTP or DTaP
	<input type="checkbox"/>	Precautions • Progressive neurologic disorder, including infantile spasms, uncontrolled epilepsy, progressive encephalopathy; defer DTaP until neurological status has clarified and stabilized
	<input type="checkbox"/>	• Fever $\geq 40.5^{\circ}\text{C}$ (105°F) within 48 hours after vaccination with previous dose of DTP or DTaP
	<input type="checkbox"/>	• Guillain-Barre' syndrome ≤ 6 weeks after a previous dose of tetanus toxoid-containing vaccine
	<input type="checkbox"/>	• Seizure ≤ 3 days after vaccination with previous dose of DTP or DTaP
	<input type="checkbox"/>	• Persistent, inconsolable crying lasting ≥ 3 hours within 48 hours after vaccination with previous dose of DTP/DTaP
	<input type="checkbox"/>	• History of arthus-type hypersensitivity reactions after a previous dose of tetanus toxoid-containing vaccine
	<input type="checkbox"/>	• Moderate or severe acute illness with or without fever
DT, Td	<input type="checkbox"/>	Contraindications • Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component
	<input type="checkbox"/>	Precautions • Guillain-Barre' syndrome ≤ 6 weeks after a previous dose of tetanus toxoid-containing vaccine
	<input type="checkbox"/>	• History of arthus-type hypersensitivity reactions after a previous dose of tetanus toxoid-containing vaccine
	<input type="checkbox"/>	• Moderate or severe acute illness with or without fever
IPV	<input type="checkbox"/>	Contraindications • Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component
	<input type="checkbox"/>	Precautions • Pregnancy
	<input type="checkbox"/>	• Moderate or severe acute illness with or without fever

Vaccine	X	
PCV (not currently required by ARM)	<input type="checkbox"/>	Contraindications <ul style="list-style-type: none"> Severe allergic reaction (e.g., anaphylaxis) after a previous dose (of PCV7, PCV13, or any diphtheria toxoid--contain vaccine) or to a component of a vaccine (PCV7, PCV13, or any diphtheria toxoid-containing vaccine) Precautions <ul style="list-style-type: none"> Moderate or severe acute illness with or without fever
Hib	<input type="checkbox"/>	Contraindications <ul style="list-style-type: none"> Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component Age <6 weeks Precautions <ul style="list-style-type: none"> Moderate or severe acute illness with or without fever
MMR	<input type="checkbox"/>	Contraindications <ul style="list-style-type: none"> Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component Known severe immunodeficiency (e.g., hematologic and solid tumors, chemotherapy, congenital immunodeficiency, long-term immunosuppressive therapy, or patients with HIV infection who are severely immunocompromised) Pregnancy Precautions <ul style="list-style-type: none"> Recent (<11 months) receipt of antibody-containing blood product (specific interval depends on the product) History of thrombocytopenia or thrombocytopenic purpura Need for tuberculin skin testing Moderate or severe acute illness with or without fever
Tdap (not currently required by ARM)	<input type="checkbox"/>	Contraindications <ul style="list-style-type: none"> Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component Encephalopathy within 7 days after receiving a previous dose of DTP, DTaP, or Tdap Precautions <ul style="list-style-type: none"> Guillain-Barre' syndrome ≤6 weeks after a previous dose of tetanus toxoid-containing vaccine Progressive neurological disorder, including progressive encephalopathy, or uncontrolled epilepsy, until the condition has stabilized Arthus reaction following a previous dose of any vaccine containing tetanus toxoid or diphtheria Moderate or severe acute illness with or without fever
Varicella	<input type="checkbox"/>	Contraindications <ul style="list-style-type: none"> Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component Known severe immunodeficiency (e.g., hematologic and solid tumors, chemotherapy, congenital immunodeficiency, long-term immunosuppressive therapy, or patients with HIV infection who are severely immunocompromised) Pregnancy Precautions <ul style="list-style-type: none"> Recent (<11 months) receipt of antibody-containing blood products (interval depends on product) Moderate or severe acute illness with or without fever
For medical conditions not listed, please note the vaccine(s) that is contraindicated and a description of the condition		

Attach most current immunization record	Instructions
Date exemption ends _____ Completing physician's name (please print) _____ Address _____ Phone _____ Completing physician's signature (only licensed physicians may sign)	Purpose: To provide Montana physicians with a mechanism to document <u>true</u> medical exemptions to vaccinations Preparation: 1. Complete patient information (name, DOB, address, and school/childcare facility) 2. Check applicable vaccine(s) and exemption(s) 3. Complete date exemption ends and physician information 4. Attach a copy of the most current immunization record 5. Retain a copy for file 6. Return original to person requesting form Reorder: Immunization Program 1400 Broadway, Room C-211 Helena, MT 59620 (406) 444-5580 http://www.dphhs.mt.gov/publichealth/immunization/ Questions? Call (406) 444-5580

Montana Code Annotated
20-5-101-410: Montana Immunization Law
52-2-735: Daycare certification

Administrative Rules of Montana
37.114.701-721: Immunization of K-12, Preschool, and Post-secondary schools
37.95.140: Daycare Center Immunizations, Group Daycare Homes, Family Day Care Homes



PREVENTION OPPORTUNITIES UNDER THE BIG SKY

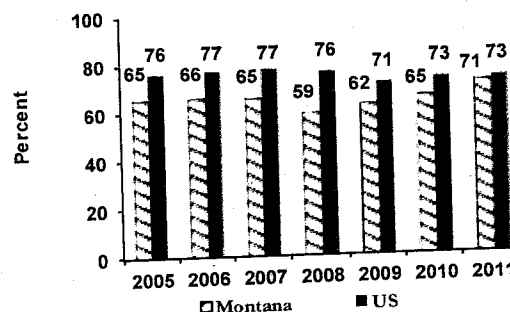
IMPROVING CHILDHOOD IMMUNIZATION RATES IN MONTANA: SIGNS OF PROGRESS

In April 2010, *Montana Public Health* described the very low immunization rate of Montana children aged 19-35 months ("Montana, The Last Best Place, Is Unfortunately Also Last in the Country in Childhood Immunization").¹ From 2004 to 2010, Montana ranked in the lowest quintile among states for immunization coverage in this age group.² (Figure) In 2008, the state had the distinctly dubious distinction of ranking 50th with regards to the common childhood series 4:3:1:3:3:1 (4 DTap, 3 Polio, 1 MMR, 3 Hib, 3 HBV, 1 Varicella) with only 59% of the children assessed considered up-to-date; 17 percentage points less than the national average. The Department of Public Health and Human Services (DPHHS) Immunization Program worked with local public health agencies, private clinicians and other partners, to develop a strategic approach to improve childhood immunization rates. Recent estimates from the National Immunization Survey (NIS) demonstrate notable improvement. In March 2011, 71.3% of Montana children aged 19-35 months were considered up-to-date for 4:3:1:0:3:1:4 (4 DTap, 3 Polio, 1 MMR, 0 Hib*, 3 HBV, 1 Varicella, 4 PCV). The national average at that time was 73.1%. Although this indicates significant improvement, additional work is needed. This issue of *Montana Public Health* describes three of the initiatives taken by DPHHS, local health agencies and other partners that we believe are leading to improved immunization rates.

Standardized review and enforcement of immunization requirements in licensed childcare facilities The Administrative Rules of Montana (ARM) require all childcare facility attendees to have received certain vaccines. Before 2010, the number of childcare facilities reviewed was limited and efforts to bring up to date or exclude children not in compliance varied. In 2011, the DPHHS Immunization Program required contracting local health departments to increase inspection of childcare facilities within their jurisdictions and clarified enforcement responsibilities. The authority allows local health officers and the licensing agency to exclude children not meeting immunization requirements. In 2011, over 600 (53%) of 1,139 childcare facilities were visited by public health nursing staff. These staff reviewed 16,755 immunization records compared with 1,100 records from 109 facilities reviewed in 2009. Ninety-two percent of immunization records reviewed by public health nurses in 2011 were up-to-date per ARM compared with approximately 35% in 2009.

Medical Exemption Review Panel A child attending a childcare facility may be exempted from required immunization(s) if, a physician signs a medical exemption form stating a medical contraindication exists. This authority is interpreted broadly, and a small number of physicians grant medical exemptions to immunizations because of parents' fear of autism, unsubstantiated allergies, and other reasons for which there is no medical evidence to support exemption. When public health nurses discover medical exemptions to immunization(s) for which the documented evidence seems insufficient, these nurses alert the State Medical Officer. Since June 2011 the

Figure. Percent of children, 19-35 months, with complete immunization coverage*, NIS, Montana and US, 2005-2011 mid year estimates.



State Medical Officer received 44 medical exemptions thought to lack sufficient evidence. A review panel (consisting of two family medicine physicians, two pediatricians, and two infectious disease physicians) advises the State Medical Officer on these medical exemptions. The panel reviews exemptions and provides an opinion as to whether sufficient evidence was presented to warrant the exemption. If the panel finds more evidence is required to justify the exemption, the State Medical Officer then sends a certified letter to the physician requesting additional information. If additional information is not provided, the medical exemption is voided. This use of the medical exemption review panel is unlikely to improve Montana's childhood immunization rates substantially, yet the panel's role in preventing dangerous outbreaks in facilities where groups of under-immunized children are enrolled should not be minimized.

* Haemophilus influenza, type B was not included in CDC's analysis due to changes in measurement of vaccine and vaccine shortage.